

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

DANIEL HARPER,

Petitioner,

v.

MARIPOSA COUNTY SUPERIOR  
COURT,

Respondent.

No. 1:20-cv-00808-NONE-SKO (HC)

ORDER ADOPTING FINDINGS AND  
RECOMMENDATIONS, DISMISSING  
PETITION FOR WRIT OF HABEAS  
CORPUS, DIRECTING THE CLERK OF  
COURT TO ASSIGN DISTRICT JUDGE FOR  
PURPOSE OF CLOSING CASE AND  
DECLINING TO ISSUE CERTIFICATE OF  
APPEALABILITY

(Doc. No. 6)

Petitioner is a state prisoner proceeding in propria persona with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. On June 18, 2020, the magistrate judge assigned to the case issued findings and recommendations to dismiss the petition, reasoning that petitioner had named the wrong respondent and that his sole claim—a due process claim related to a prison disciplinary proceeding—was plainly without merit because the exhibits attached to the petition demonstrated that all the relevant due process requirements were met. (Doc. No. 6.) The findings and recommendations were served upon all parties and contained notice that any objections were to be filed within thirty (30) days from the date of service of that order. To date, no party has filed objections.

1 In accordance with the provisions of 28 U.S.C. § 636 (b)(1)(C), the court has conducted a  
2 de novo review of the case. Having carefully reviewed the entire file, the court concludes that the  
3 findings and recommendations are supported by the record and proper analysis.

4 In addition, the court declines to issue a certificate of appealability. A state prisoner  
5 seeking a writ of habeas corpus has no absolute entitlement to appeal a district court's denial of  
6 his petition, and an appeal is only allowed in certain circumstances. 28 U.S.C. § 2253; *Miller-El*  
7 *v. Cockrell*, 537 U.S. 322, 335-336 (2003).

8 If a court denies a petitioner's petition, the court may only issue a certificate of  
9 appealability when a petitioner makes a substantial showing of the denial of a constitutional right.  
10 28 U.S.C. § 2253(c)(2). To make a substantial showing, the petitioner must establish that  
11 "reasonable jurists could debate whether (or, for that matter, agree that) the petition should have  
12 been resolved in a different manner or that the issues presented were 'adequate to deserve  
13 encouragement to proceed further.'" *Slack v. McDaniel*, 529 U.S. 473, 484 (2000) (quoting  
14 *Barefoot v. Estelle*, 463 U.S. 880, 893 (1983)).

15 In the present case, the court finds that petitioner has not made the required substantial  
16 showing of the denial of a constitutional right to justify the issuance of a certificate of  
17 appealability. Reasonable jurists would not find the court's determination that petitioner is not  
18 entitled to federal habeas corpus relief debatable, wrong, or deserving of encouragement to  
19 proceed further. Thus, the Court declines to issue a certificate of appealability.

20 Accordingly:

- 21 1. The findings and recommendations, filed June 18, 2020 (Doc. No. 6), are adopted;
- 22 2. The petition for writ of habeas corpus is dismissed;
- 23 3. The Clerk of Court is directed to assign a district judge to this case for the purpose  
24 of closing this case; and,
- 25 4. The court declines to issue a certificate of appealability.

26 IT IS SO ORDERED.

27 Dated: August 21, 2020

28   
UNITED STATES DISTRICT JUDGE

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